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Dated: July 14, 2007 Signature: /Mark D. Russett/  
Mark D. Russett, Reg. No. 41,281

Docket No.: 61387(72021)  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Rajagopal Bakthavatchalam et al.

Application No.: 10/591,553

Filed: September 1, 2006

Art Unit: 1614

For: ARYL SUBSTITUTED PURINE  
ANALOGUES

Examiner: Not Yet Assigned

**REQUEST/PETITION FOR REFUND**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is a request for a refund to our Deposit Account No. 04-1105 with respect to the above-identified application.

**FEES CHARGED FOR WHICH REFUND REQUESTED**

Amount charged by USPTO:	\$6600.00
- Amount authorized by Applicant	\$ 640.00
- Amount due with this paper	\$3950.00
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<b>Amount of Refund Requested</b>	<b>\$2010.00</b>

The basis for this request is set forth below.

**EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR**

On September 1, 2006, the above-referenced application (a national stage application under 35 U.S.C. §371 of PCT/US05/07373) was filed with the United States DO/EO. In order to comply with the requirements of 37 CFR §1.495(b)(2), the transmittal papers accompanying the application gave authorization to charge the basic national fee set forth in 37 CFR §1.492(a) (\$300) to Deposit Account No. 04-1105 of the undersigned firm. The transmittal papers also itemized, and gave authorization to charge, the search and examination fees required by 37 CFR §1.492(b) and (c) (\$100 and \$200, respectively). The total of the authorized charges related to the filing fees was \$600.00 (calculated at the non-small-entity rate). The charge for recording an assignment (\$40) was also authorized, for a total of \$640. A copy of the transmittal papers filed on September 1, 2006 (as retrieved from Private PAIR on July 14, 2007) is attached.

No other charges were itemized or authorized in the transmittal papers, and a general authorization to charge additional fees was not given. It can be seen on page 3 of the transmittal papers that authorization to charge \$640.00<sup>1</sup> was given (the box at line “b” is checked), but no general authorization to charge additional fees was given (the box at line “c” is not checked).

On May 14, 2007, a “Notice of Acceptance” was mailed from the U.S. Patent and Trademark Office, indicating that all requirements for national examination had been satisfied. The accompanying Filing Receipt (also mailed on May 14, 2007) indicated that the total charges received were \$6560.00<sup>2</sup>. While no itemization of these charges was provided by the USPTO, this amount appears to reflect -- in addition to the basic fees authorized by Applicants as described above -- excess claims fees (for claims above the 20 total and 3 independent claims included with the basic filing fee) and/or multiple dependent claims fees. Applicants believe that no other fees were due.

As noted above, Applicants authorized the payment of only \$640.00, and did not authorize the charging of additional fees. Because no authorization to charge additional

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<sup>1</sup> Including the charge for recordation of an assignment (\$40).

fees was given, the appropriate proper procedure would be for the USPTO to issue a "Notification of Insufficient Fees" to give the Applicants an opportunity to pay the missing fees, or cancel the excess claims. The USPTO improperly charged fees totaling \$5960<sup>3</sup> (an amount that will be reduced by any excess claims presented, as discussed below). Applicants are now requesting a refund/credit to reflect the difference between the fees charged and the fees properly due.

In order to reduce the filing fees due, Applicants are filing herewith a Preliminary Amendment to reduce the number of claims in the application, and to thereby reduce the excess claims fees. Upon entry of the Preliminary Amendment, a total of 71 claims, of which 10 are independent, will be pending in the application. There are no multiple dependent claims remaining after entry of the Preliminary Amendment. Therefore, the proper excess claims fees for the application are as follows:

Total claims: <b>71</b>	Claims in excess of 20: <b>51</b>	Fee: \$50	Total: <b>\$2550</b>
Independent	Independent claims in	Fee: \$200	Total: <b>\$1400</b>
claims: <b>10</b>	excess of 3: <b>7</b>		
			Total: <b>\$3950</b>

Applicants request that the amount of \$3950.00 now due be applied against the refund/credit due (\$5960) as discussed above.

Therefore, the total refund/credit due, after payment of excess claims fees is: **\$2010.00.**

#### Relief requested

Please credit our Deposit Account No. **04-1105** in the amount of **\$2010.00** under matter number 61387 (72021).

<sup>2</sup> The assignment recordation charge is evidently not included in this amount; however, deposit account records show that a total of \$6600.00 has been charged in connection with this application.

<sup>3</sup> The total charge of \$6600, including the assignment recordation fee (see footnote 2, supra) less the previously-authorized amount of \$640.

**CONCLUSION**

In the event that this paper should more properly be filed as a Petition under 37 C.F.R. §1.181 or §1.182, or under any other relevant rule or provision, Applicants request that this paper be treated as an appropriate petition and that any necessary fees be charged to our deposit account as indicated below.

If for any reason a fee is required (including any filing fee or surcharge associated with this application) and has not been submitted, or a fee submitted is incorrect or insufficient, kindly charge/credit our deposit account no. 04-1105, under matter number 61387 (72021). If this Request/Submission is considered to be incomplete, or should questions arise, please contact the undersigned.

Dated: July 14, 2007

Respectfully submitted,

By           /Mark D. Russett/            
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